

CCRB INVESTIGATIVE RECOMMENDATION

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|---|--|---------------------------|---|---|---------------------------------|
| Investigator: Ramsey AlQaisi | Team: Team # 1 | CCRB Case #: 201404985 | <input checked="" type="checkbox"/> Force | <input checked="" type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Wednesday, 05/14/2014 8:05 PM | Location of Incident: 107th Avenue and 157th Street | Precinct: 103 | 18 Mo. SOL 11/14/2015 | EO SOL 11/14/2015 | |
| Date/Time CV Reported Thu, 05/15/2014 7:55 PM | CV Reported At: IAB | How CV Reported: Phone | Date/Time Received at CCRB Wed, 05/21/2014 3:22 PM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
| | | |

| Witness(es) | Home Address |
|-------------|--------------|
| | |
| | |

| Subject Officer(s) | Shield | TaxID | Command |
|---------------------------|--------|--------|---------|
| 1. POM Carlos Cano | 19581 | 944411 | GANG Q |
| 2. POM Christophe Cruzado | 27628 | 945630 | GANG Q |

| Officer(s) | Allegation | Investigator Recommendation |
|--------------------------|--|-----------------------------|
| A.POM Christophe Cruzado | Abuse: PO Christopher Cruzado stopped § 87(2)(b) | |
| B.POM Christophe Cruzado | Force: PO Christopher Cruzado pointed his gun at § 87(2)(b) | |
| C.POM Christophe Cruzado | Abuse: PO Christopher Cruzado threatened § 87(2)(b) with the use of force. | |
| D.POM Christophe Cruzado | Discourtesy: PO Christopher Cruzado spoke discourteously to § 87(2)(b) | |
| § 87(4-b) § 87(2)(g) | | |
| § 87(4-b) § 87(2)(g) | | |
| § 87(4-b) § 87(2)(g) | | |

Case Summary

On May 14, 2014, at approximately 8:05 p.m., § 87(2)(b) parked his car by the corner of 107th Avenue and 157th Street in Queens and was stopped by PO Christopher Cruzado (Allegation A), who was accompanied by PO Carlos Cano; both officers were assigned to Queens South Gang Squad. PO Cruzado opened § 87(2)(b)'s car door and pointed a gun at § 87(2)(b) (Allegation B). § 87(2)(b) alleged that PO Cruzado said, "Do you want me to shoot you? I'll put a bullet in you," and "What the fuck does that mean to me?" (Allegations C and D). § 87(4-b) § 87(2)(g) b) § 87(2)(g)

Mediation, Civil and Criminal History

This case was not eligible for mediation. § 87(2)(b) has not filed a Notice of Claim with the City of New York as of October 7, 2014 with regard to the incident (encl. 18). [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB History

- PO Cruzado has been a member of the service for six years and this is his first CCRB complaint (encl. 3a).
- PO Cano has been a member of the service for seven years and has five substantiated CCRB allegations against him (encl. 3b-3c).
 - In case number 201301821, allegations of a stop and frisk were substantiated. The Board recommended charges and the Police Department issued instructions.
 - In case number 201307838, two stop allegations and one frisk allegation were substantiated and the Board recommended charges. The case is currently pending with the CCRB Administrative Prosecution Unit.
- This is the first CCRB complaint filed by § 87(2)(b) (encl. 4).

Findings and Recommendations

Explanation of Subject Officer Identification

PO Cruzado acknowledged initiating the stop of § 87(2)(b) and pointing his gun at him. PO Cano confirmed that he was acting on PO Cruzado's instructions. § 87(2)(g) PO Cruzado matched the description of the officer who allegedly made the discourteous and threatening statements. § 87(2)(g)

Allegation A - PO Christopher Cruzado stopped § 87(2)(b)

§ 87(2)(b) was parked for about one minute before PO Cruzado approached his car, asked him why he was parked there, and opened his car door.

§ 87(2)(b) stated that PO Cruzado approached his car and asked why he parked there (encl. 9b-9c). § 87(2)(b) replied that he lived there. PO Cruzado asked to see § 87(2)(b)'s identification and § 87(2)(b) responded that he needed to put the car into park. PO Cruzado said, "Okay," and § 87(2)(b) went to put the car into park. PO Cruzado then opened the car door and tried to pull him out of the vehicle.

PO Cruzado (encl. 13d-13e) stated that he observed § 87(2)(b)'s car idling for about five to ten minutes and approached to make sure he was alright. After reviewing the surveillance footage, PO Cruzado stated that he observed § 87(2)(b) for about a minute or less and approached to ask

§ 87(2)(b) why he parked there because it was late and the nearby stores were closed. He did not suspect § 87(2)(b) of any criminality. § 87(2)(b) yelled and cursed at him. Then, PO Cruzado saw § 87(2)(b)'s hand go towards the shifter. PO Cruzado thought § 87(2)(b) was going to put the car into drive so he opened the car door and told § 87(2)(b) to step out.

In the video footage, § 87(2)(b)'s hands are in front of his chest when PO Cruzado opens the car door and motions for § 87(2)(b) to exit (encl. 12a-12b). § 87(2)(b)'s hand only moves towards his gear shift after PO Cruzado opens the car door and motions for § 87(2)(b) to exit.

In order to approach a stationary vehicle and request information, the police need an objective credible reason, not necessarily indicative of criminality, but more than just an idle curiosity. People v. Kojac 176 Misc. 2d 187 (Sup. Ct. Ct. New York Cty., 1998) (encl. 1a-1c). A police officer needs reasonable suspicion to ask the occupants of a stationary vehicle to exit, which constitutes a stop. People v. Rios 27 Misc. 3d 963 (Sup. Ct. New York Cty., 2010) (encl. 1d-1j).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation B - PO Christopher Cruzado pointed his gun at § 87(2)(b)

PO Cruzado pointed his gun at § 87(2)(b). § 87(2)(b) stated that he told PO Cruzado he was going to put the car into park, and PO Cruzado replied, "Okay." But when § 87(2)(b) went to put the car into park, PO Cruzado opened the door and pointed a gun at him. The video footage confirms that PO Cruzado drew his gun after § 87(2)(b) reached towards his gear shift.

According to PO Cruzado, § 87(2)(b) grabbed the shifter and pushed his foot towards the gas pedal. PO Cruzado pointed his gun at § 87(2)(b) because he wanted to prevent § 87(2)(b) from moving the car and hitting PO Cano and himself.

An officer can point his firearm so long as he reasonably fears for his own or another's personal safety. PD v. Gliner, OATH Index No. 955/00 (2000) (encl. 1k-1zz). The reasonableness of an officer's actions, given the totality of the surrounding circumstances, must be assessed when

§ 87(2)(g)

Allegation D - PO Christopher Cruzado spoke discourteously to § 87(2)(b)

PO Cruzado and PO Cano denied hearing or saying, “Do you want me to shoot you? I’ll put a bullet in you,” and “What the fuck does that mean to me?”

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

Investigator: _____ Ramsey AlQaisi _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date